

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Martin L. Novillo
5 Assistant Federal Public Defender
6 Virginia State Bar No. 76997
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 Martin_novillo@fd.org

11 *Attorney for Petitioner Justin James Edmisten

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Justin James Edmisten,

15 Petitioner,

16 v.

17 Dwight Neven, *et al.*,

18 Respondents.

Case No. 2:15-cv-00952-RFB-NJK

**Unopposed Motion for an
Extension of Time in which to file
a Reply**

(First request)

1 Petitioner Justin James Edmisten (“Mr. Edmisten”) moves for an extension of
2 time of 60 days, up to and including Friday, June 26, 2020, to file his Reply to
3 Respondents’ Answer to Mr. Edmisten’s First Amended Petition for a Writ of Habeas
4 Corpus. Respondents do not oppose this request.

5 1. On March 21, 2017, this Court appointed the Federal Public Defender,
6 District of Nevada to Mr. Edmisten’s case. ECF No. 17. On September 4, 2018, Mr.
7 Edmisten, through counsel, filed his First Amended Petition. ECF No. 41.
8 Respondents filed their Answer on March 12, 2019, rendering Mr. Edmisten’s Reply
9 due on April 27, 2020. ECF No. 73. Mr. Edmisten, for those reasons detailed below,
10 seeks a sixty (60) day extension on his deadline.

11 2. An extension of time to file is merited on account of various filing
12 deadlines undersigned counsel recently had to meet in non-capital and capital habeas
13 matters. In addition, an extension of time is necessary in light of the difficulties posed
14 by the COVID-19 pandemic.

15 3. The World Health Organization declared a global pandemic on March
16 11, 2020. *WHO Director-General’s Opening Remarks at The Media Briefing On*
17 *COVID-19*, World Health Organization, [https://www.who.int/dg/speeches/detail/who-](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020)
18 [director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020)
19 [2020](https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020). The outbreak relates to COVID-19, the novel coronavirus. COVID-19 is a highly
20 contagious respiratory illness that causes fever, cough, and shortness of breath. *See*
21 *Coronavirus Disease 2019 (COVID-19)*, Centers for Disease Control and Prevention,
22 <https://www.cdc.gov/coronavirus/2019-ncov/index.html>. The virus also leads to
23 serious complications, including death, in a significant portion of the population—
24 particularly in people over the age of 60 or with other underlying health conditions.
25 *Severe Outcomes Among Patients with Coronavirus Disease 2019 (COVID-19)*,
26 Centers for Disease Control and Prevention, [https://www.cdc.gov/mmwr/volumes/69/](https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm)
27 [wr/mm6912e2.htm](https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm).

1 4. According to Johns Hopkins University, as of April 27, 2020, there were
2 3,017,806 confirmed cases in the world, with 209,660 deaths. Johns Hopkins
3 University, Coronavirus Resource Center, <https://coronavirus.jhu.edu/> (last visited
4 April 27, 2020 at 12:39 PM). As of April 26, 2020, there were 957,875 cases in the
5 United States, with 53,922 deaths. *Cases in U.S.*, Centers for Disease Control and
6 Prevention, [https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-](https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html)
7 [us.html](https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html) (last visited April 27, 2020 at 12:39 PM).

8 5. The Governor of Nevada, Steve Sisolak, declared a state of emergency
9 on March 12, 2020. *Declaration of Emergency for COVID-19*, Nevada Governor Steve
10 Sisolak (Mar. 12, 2020), [http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/)
11 [12_-_COVID-19_Declaration_of_Emergency/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/). On March 15, 2020, Governor Sisolak
12 directed all public grade schools to close. *COVID-19 Declaration of Emergency*
13 *Directive*, Nevada Governor Steve Sisolak (Mar. 15, 2020), [http://gov.nv.gov/News/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/)
14 [Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/)
15 [Directive_001/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/). On March 20, 2020, Governor Sisolak issued an emergency directive
16 ordering all nonessential businesses to close. *Full transcript of Gov. Sisolak's*
17 *emergency directive address*, Las Vegas Sun (March 20, 2020, 6:30 PM),
18 [https://lasvegassun.com/news/2020/mar/20/full-transcript-gov-sisolaks-emergency-](https://lasvegassun.com/news/2020/mar/20/full-transcript-gov-sisolaks-emergency-directive/)
19 [directive/](https://lasvegassun.com/news/2020/mar/20/full-transcript-gov-sisolaks-emergency-directive/). On March 24, 2020, Governor Sisolak issued yet another emergency
20 directive stating, "Nevadans who are not living within the same household, working
21 at or patronizing an essential business or providing essential services may not gather
22 in groups of ten or more in any indoor or outdoor public area." *Governor Sisolak signs*
23 *directive related to public gatherings to mitigate spread of COVID-19*, Nevada Health
24 Response (Mar. 24, 2020), [https://nvhealthresponse.nv.gov/wp-content/uploads/2020/](https://nvhealthresponse.nv.gov/wp-content/uploads/2020/03/03.24-PUBLIC-GATHERING-DIRECTIVE_.pdf)
25 [03/03.24-PUBLIC-GATHERING-DIRECTIVE_.pdf](https://nvhealthresponse.nv.gov/wp-content/uploads/2020/03/03.24-PUBLIC-GATHERING-DIRECTIVE_.pdf).

1 6. The FPD implemented voluntary telework for all employees on March
2 16, 2020 and made the same mandatory on March 23, 2020. The telework measures
3 adopted require undersigned counsel to work remotely, through use of a personal
4 computer. As a result of these understandable policies, work on Mr. Edmisten's case
5 has been affected by technological difficulties and lack of access to case records, as
6 well as office supplies and amenities. In addition to technical difficulties, school
7 closures have forced counsel to care for his 16-month old child during regular working
8 hours; unsurprisingly, the amount of work counsel is able to perform on any given
9 day has been negatively affected by this development.

10 7. In the midst of the above-referenced difficulties, undersigned counsel
11 had to meet filing deadlines in capital and non-capital habeas matters, which further
12 prevented him from finalizing the Reply due in this case. Specifically, on April 13,
13 2020, undersigned counsel filed a 101-page Reply in the matter of *Brown v. Williams*
14 *et al.*, 11-cv-01058-JCM. In addition, undersigned counsel was compelled to file a
15 motion for equitable tolling in the out-of-state capital habeas matter of *Maury v.*
16 *Martel*, 12-cv-01043-WBS. In addition to meeting the above-referenced filing
17 deadlines, undersigned counsel had to move forward with investigations and research
18 in various other cases.

19 8. The requested extension will permit counsel time to thoroughly and
20 adequately respond to the arguments raised by the Respondents in their Answer.
21 This is Edmisten's first request for an extension and is not made for the purposes of
22 delay, but rather in the interests of justice.

23 9. Finally, the present request for an extension is unopposed. On April 27,
24 2020, counsel for Petitioner contacted Deputy Attorney Jessica Perlick via email
25 concerning this request for an extension of time. Ms. Perlick has no objection to the
26 request.
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1 WHEREFORE, counsel respectfully requests that this Court grant the request
2 for an extension of time to file a Reply to Respondents' Answer to Friday June 26,
3 2020.


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5 Dated April 27, 2020

6 Respectfully submitted,

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8 Rene L. Valladares
9 Federal Public Defender

10 /s/ Martin L. Novillo
11 Martin L. Novillo
12 Assistant Federal Public Defender
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14 IT IS SO ORDERED:

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16 
17 RICHARD F. BOULWARE, II
18 UNITED STATES DISTRICT JUDGE

19 DATED this April 28th day of, 2020.
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